IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And

THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 1223 of 2005

Between:

1 The Government of Andhra Pradesh, represented by its Principal Secretary, T.R. &B (Ser.III) Department, Hyderabad.
2 The Engineer-in-Chief (R&B) Errumanzil, Hyderabad Andhra Pradesh.
3 The Superintending Engineer, (R&B) Head Quarters Circle, Hyderabad.
4 The Electrical Engineer (General) Division, Hyderabad.
5 The Government of Andhra Pradesh, represented by its Secretary, Finance and Planning Department, Secretariat Buildings, Hyderabad.

..... PETITIONERS

AND

Smt.Saleema Bee Sweeper, (Retired),
Office of the Electrical Engineer (General),
A.C.Guards, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ or order or direction more particularly one in the nature of writ of certiorari and to call for records connected with order dt.21.11.2003 in O.A. No.6832 of 2003 on the file of the Hon'ble Andhra Pradesh Administrative Tribunal, Hyderabad and to quash the same as erroneous and contrary to law.

Counsel for the Petitioners: GP FOR FINANCE & PLANNING

Counsel for the Respondent: MR.S.GOPAL RAO.

The Court at the admission stage made the following :

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ORAL ORDER: (per GB.J.)

The Writ Petition is filed by the State assailing the order passed by A.P. Administrative Tribunal (for brevity Tribunal) in O.A.No.6832 of 2003, dated 21.11.2003.

2. The respondent was appointed as a Part-time Sweeper on 21.10.1967 and thereafter some more persons were also employed in the establishment. The Government issued G.O.(P).No.112, Finance and Planning (PC.III) Department, dated 23.7.1997 directing regularization of the Part-time workers subject to fulfillment of other conditions as laid down in the said G.O. The prime condition is that one should put in ten years of continuous service as on 25.11.1993. On the basis of the said G.O., proposals were sent by the Engineer-in-Chief on 27.11.2000 for issuing appropriate orders in pursuance of G.O.(P).No.112, dated 23.7.1997 in respect of seven employees and the name of the respondent herein figures at serial No.2. However, unfortunately, the respondent retired from service on 31.7.2002. While so, the Government acted upon the proposal and issued GO.RT.No.444, Transport, Roads and Buildings (Ser.III) Department, dated 30.4.2003 approving regularization of service of five persons only deleting the names of two persons including the respondent on the ground that the respondent was already retired from service. Aggrieved by the said order, the respondent filed the above OA before the Tribunal and the Tribunal taking into consideration the proposals sent by the Department, disposed of the OA with the following directions:

> "Having regard to the fact that the applicant is an appointee of the year 1967 and has completed 10 years of service long ago and keeping this fact the 2nd respondent recommended the name of the applicant for regularization along with other eligible candidates vide letter No.47877/Ser.VI-4/98, dated 27.11.2000 which was ultimately acted upon by the 1st respondent-Government by issuing G.O.Rt.No.444, Transport, Roads & Buildings (Ser.III) Department, dated 30.4.2003. When the proposals were sent way back in the year 2000, had the 1st respondent taken a decision in

time, the services of the applicant would have been regularized. Therefore, in the opinion of this Court, the applicant cannot be denied the benefit of regularization and such benefit shall be accorded to her as has been done in the case of other co-employees. Appropriate orders shall be passed in this regard within a period of 6 weeks from the date of receipt of this order.

With the above directions, the OA is disposed of at the admission stage".

3. The learned Government Pleader for Finance and Planning submits that the order of the Tribunal is not sustainable in law inasmuch as on the date when the G.O. was issued by the Government, the respondent was not in service and whoever in service as on that date, they were regularized and hence the respondent cannot be considered for regularization.

4. We are afraid the contention cannot be accepted. Even though the proposals were sent in July, 2000, it was only acted after a period of two years, by which time the respondent was retired from service on 31.7.2002. On account of the retirement, she cannot be denied the benefits, which ought to have been accrued in pursuance of G.O.(P) No.112, dated 23.7.1997 and the said benefit was also given to junior employees to the respondent herein, in respect of whom proposals were sent in 2002. Under those circumstances we do not find any flaw in the directions issued by the Tribunal.

5. Accordingly the Writ Petition is dismissed. No costs.

G.BIKSHAPATHY, J.

2nd February, 2005.

---------- P.S.NARAYANA, J.

SSR

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Government of Andrha Pradesh, represented by its Principal Secretary, T.R. &B (Ser.III) Department, Hyderabad.
2 The Engineer-in-Chief (R&B) Errumanzil, Hyderabad Andhra Pradesh.
3 The Superintending Engineer, (R&B) Head Quarters Circle, Hyderabad.
4 The Electrical Engineer (General) Division, Hyderabad.
5 The Government of Andhra Pradesh, represented by its Secretary, Finance and Planning Department, Secretariat Buildings, Hyderabad.

6 The Registrar, A.P. Administrative Tribunal, Hyderabad.

7 2 CCs to G.P. for Finance and Planning, High Court of A.P.

Hyderabad. (OUT)

8 2 CD copies